IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA:

CWP.No.687/2002.

Date of Decision :24.5.2007.

Bimla Devi. …Petitioner.

Versus:

The Chairman-cum-M.D.UCO Bank. …Respondents.

Coram:

The Hon'ble Mr.Justice Sanjay Karol, Judge.

Whether approved for reporting?[1] Yes.

For the petitioner. Mr.Chandernarayan Singh, Advocate.

For the Respondents. Ms.Sanjivni Sood, vice counsel.

Sanjay Karol, J (Oral).

Shri Khazana Ram while working as Clerk with the respondents-Bank at their Branch Office, Arki, District Solan, H.P., died in harness on 10th December, 1999. He served the bank for a period of approx. 22 years and left behind petitioner, wife and a minor son. Admittedly, the legal heirs have received all permissible and admissible service benefits of the deceased except the one in issue in the present writ petition.

To avail the benefit of the "Scheme for Recruitment of Dependants of Deceased Employees on Compassionate Grounds" (hereinafter referred to as `the Scheme'), petitioner applied for the

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[1] **Whether reporters of Local Papers may be allowed to see the judgment?**

compassionate appointment on 18th April, 2000 (Annexure:P-3). The case was processed at various levels and not considered favourably as the petitioner did not fulfill the eligibility criteria for compassionate appointment as laid down under Clause 7(c) of `the Scheme'. As is clear from the affidavit filed by the respondent - bank, petitioner is drawing a family pension at the rate of Rs.4353/- per month which, however, was subsequently reduced to Rs.2780/- per month. That apart, petitioner is also entitled for a lump sum compensation of Rs.1.50 lacs which the respondent-Bank is ready to pay.

This Court in CWP No. 1470/2002, titled as Amit Mohan Sharma & Others vs. State Bank of India and another, decided on 16.4.2007, has already held that the Scheme promoted by the respondent-Bank for granting compassionate appointment to enable the family to tide over certain crisis due to death of the bread winner. It is only when the Bank is satisfied that the financial condition of the family is such that but for the provision of employment, the family may not be able to meet the crisis the employment is to be given. Mere death of an employee in harness does not automatically entitle the dependants of the deceased for employment.

Petitioner is in receipt of the family pension. It is also mentioned in her petition that her late husband owned a house. It shows that the petitioner and her son are not on the road and unable to survive. They are not living in a state of destitution.

In State of J& K and others vs. Sajad Ahmed Mir, reported in 2006(5) SCC 766, and National Institute of Technology and others vs. Niraj Kumar Singh**,** reported in 2007(2) SCC 481, the Apex Court has clarified that compassionate appointment must be under the scheme in consonance with Articles 14 and 16 of the Constitution of India. The compassionate appointment is given to the widow or the dependant

children of the employee who died in harness only with a view to render some assistance to the dependants so that they do not become destitute. Admittedly, in the present the family has been able to effectively tide over the crisis after the death of the employee, who died on 10th December, 1999.

For the foregoing reasons, I see no reason to exercise extra ordinary jurisdiction under Article 226 of the Constitution and interfere with the decision of the respondent-Bank.

However, in view of the categorical stand of the respondent-bank in its counter affidavit that the petitioner is eligible for lump sum compensation of Rs.1.50 lacs, the respondents are directed to immediately release the said amount to the family members of deceased-Khazana Ram, but not later than four weeks from today. In fact, respondent –Bank was under an obligation to release the same being the service benefits of the deceased employee. Therefore, they are liable to pay the same along with interest @ 8% per annum.

For the reasons stated herein-above, the present writ petition is accordingly disposed of .

(Sanjay Karol),
Judge.

May 24, 2007(R)